IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 729/1999

JAGDISH NARAIN & ANR. Vs. STATE OF RAJASTHAN & ANR.

DATE: 01.02.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Biri Singh for the accused-petitioners.
Mr. Ashwani Kumar Sharma, PP for the State.
Mr. Dilip Sinsinwar for
Mr. N.A. Naqvi for the respondent.

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This revision petition under Section 397 Cr.P.C. is preferred by the accused-petitioners against the judgment dated 07.09.99 passed by the Civil Judge (JD) & Judicial Magistrate, Tonk in Criminal Case No. 140/88.

Brief facts of the case that a private complaint was filed after 35 days of the incident for the offence under Sections 341, 325 and 323/34 IPC. It is alleged that the private complaint which has been filed is afterthought without complying the provisions of Section 154 Cr.P.C. It is also alleged that the petitioners moved application dated 03.08.99 stating therein that before taking cognizance previous sanction under Section 197 Cr.P.C. is required to be taken.

As per the provisions of Section 197 Cr.P.C., Prosecution of Judges and public servants- (1) When any

person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction.

Here in the instant case, the accused-petitioners are Police Constables and the incident occurred when they were not on duty and were not discharging the duties. Therefore, in the facts and circumstances of the case, prior sanction under Section 197 Cr.P.C. is not required.

I have also gone through the relevant record as well as the impugned order dated 07.09.99. it is not a case where any prior sanction under Section 197 Cr.P.C. is required. Thus, I find no illegality or error in the impugned order which do not require any interference by this Court.

Consequently, the revision petition fails and the same is hereby dismissed.

Record be sent back forthwith.

(K.S. RATHORE),J.

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